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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,787	02/14/2002	David P. Lobeck	DL01	2195
27797	7590	03/30/2004	EXAMINER	
RICHARD D. FUERLE 1711 W. RIVER RD. GRAND ISLAND, NY 14072			MENDOZA, ROBERT J	
			ART UNIT	PAPER NUMBER
			3713	17
DATE MAILED: 03/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/683,787	LOBECK, DAVID P.
	Examiner Robert J Mendoza	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 January 2004.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 8-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6, 10-13, 15-18 and 20-22 is/are rejected.
- 7) Claim(s) 9, 14 and 19 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

DETAILED ACTION

In view of the appeal brief filed on January 8, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 4, 10-13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751) and Wash (USPN 5,692,966).**

Lee illustrates, in FIG. 4, a golf practice device comprising a body that has vertical sides that can be struck by a moving golf ball. Lee illustrates, in FIG. 1, a body having a head portion

and a base. Lee illustrates, in FIG. 2, a base consisting of a pin that can be pushed into the ground. Lee illustrates, in FIG. 4:2, the sides that struck by the golf ball are cylindrical. However, Lee lacks in disclosing all the electrical components claimed to produce a electronic sound when a golf ball strikes the golf practice device. Pacheco, in an analogous golf practice device, teaches, in col. 2:56-67, col. 3:1-28 & FIG. 5, a golf practice comprising a battery, an electronic sound generator that produces an *audible sound* to provide feedback to the golfer, and a sensor switch. Pacheco also teaches, in FIGS. 2-5, the sensor switch closes the electrical circuit when the golf practice device is struck by a ball coming from any direction. Wash, in an analogous invention, teaches, in FIG. 1:14 and col. 5:26-35, an on-off switch to turn the power off when not using the putting practice device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Pacheco and Wash into the disclosed invention of Lee. One would be motivated to combine the teachings of Pacheco and Wash with the disclosed invention of Lee in order to, provide informational feedback to a golfer, increase a player's excitement when utilizing the golf practice device and prevent unintentional activation during transporting or storage of the golf practice device.

**Claims 5, 6, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Pacheco and Wash.**

The disclosures of Lee, Pacheco and Wash have been discussed above and are, therefore, incorporated herein. However, Lee, Pacheco and Wash lack in disclosing the sound is that of a ball falling into a cup or a human voice. As discussed above, Pacheco taught a sound synthesizer that produces a sound when the golf ball hits the target (col. 3:25-33). Although Pacheco does not explicitly disclose the type of sound produced by the sound synthesizer, the selection of

sound is merely a matter of design choice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee, Pacheco and Wash. One would be motivated to implement the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee, Pacheco and Wash in order to, diversify the selection of sounds that can be heard by the sound synthesizer.

**Claims 3, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751) and Wash in further view of Irving (USPN 5,259,622).**

The disclosures of Lee, Pacheco and Wash have been discussed above and are, therefore, incorporated herein. Pacheco also discloses a method of improving putting accuracy comprising placing a golf practice device on a carpet and putting golf balls at the golf practice device by disclosing in col. 3:25-28, the golfer places putting target on the outdoor practice green or indoor carpet in a desired location. Then the golfer sets up a putt on the target. As the ball rolls over the target, it depresses flexible molded pressure bars. However, Lee, Pacheco and Wash lack in disclosing the bottom of the body is attached to a material made of small hooks, whereby the golf practice device can be releasably attached to a fabric. Irving teaches, in col. 4:36-50 & fig. 4, as seen in figs. 1, 2, and 3, artificial turf may be provided on an upper surface of the platform for attempted realism. In such an instance, a circular portion of the turf may be removed, as seen in fig. 1, to receive the base of the tee to allow the base to be suitably fastened directly to the upper surface of the platform. While the base may be attached to the upper surface by means of a suitable adhesive, it would be preferable for the tee to be capable of removal from the platform,

permitting its replacement. In such an instance, hook and loop fastening material such as that sold under the trademark "VELCRO" may be used as seen in fig. 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Irving into the disclosed inventions of Lee, Pacheco and Wash. One would be motivated to combine the teachings of Irving with the disclosed inventions of Lee, Pacheco and Wash in order to, allow golf player to easily attach and remove the golfer practice device from carpet (fabric).

**Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco and Wash in further view of Irving (USPN 5,259,622).**

The disclosures of Lee, Pacheco, Wash and Irving have been discussed above and are, therefore, incorporated herein. However, Lee, Pacheco, Wash and Irving lack in disclosing the sound is that of a ball falling into a cup or a human voice. As discussed above, Pacheco taught a sound synthesizer that produces a sound when the golf ball hits the target (col. 3:25-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee, Pacheco, Wash and Irving. One would be motivated to implement the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee, Pacheco, Wash and Irving in order to, diversify the selection of sounds that can be heard by the sound synthesizer.

Allowable Subject Matter

Claims 9, 14 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

RM  
RM  
March 22, 2004

*Teresa Walberg*  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700